

REMARKS

Claims 1, 3, 4 and 6-23 are pending in this application. Claims 1-23 are provisionally rejected on the grounds of obviousness-type double patenting over Application No. 11/376,983. Claims 1, 4, 5, 7, 8, 10-14, 16, and 17 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 5,899,929 to Thompson et al. Claims 2, 3, 6, 15, and 18-23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Thompson et al. in view of U.S. Patent Number 5,545,201 to Helland et al. Claims 1-6, 8-15, 17-20, 22, and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 7,027,852 to Helland. Reconsideration is respectfully requested in light of the above claim amendments and the following remarks.

Rejections Under 35 U.S.C. §102 and §103

Claims 1, 4, 5, 7, 8, 10-14, 16, and 17 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 5,899,929 to Thompson et al. Reconsideration is respectfully requested in light of the above claim amendments and the following remarks.

Applicants' claimed invention, as recited in pending independent claims 1, 13, and 18, is directed to an implantable cardiac lead that is configured to attenuate far-field and repolarization signals. As recited in amended Claim 1, the lead includes a lead body and a helical tip electrode extending from the distal region and a second electrode spaced proximally from the tip electrode.

In contrast, Thompson et al. fail to teach a helical tip electrode. Therefore, the rejections under §102(b) are moot.

Claims 2, 3, 6, 15, and 18-23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Thompson et al. in view of U.S. Patent Number 5,545,201 to Helland et al. Claims 1-6, 8-15, 17-20, 22, and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 7,027,852 to Helland.

The '852 Patent to Helland and the subject application were, at the time the invention was made, owned by, or subject to an obligation of assignment to the same assignee. Therefore it is respectfully submitted that the '852 Patent to Helland is not prior art to the subject application.

Applicants' claimed invention, as amended, now recites a lead for attenuating T-waves, and recites a helical tip electrode which, in conjunction with the second electrode, acts to attenuate T-wave signals. As described in applicants' specification, and specifically at paragraphs 12, 19, 20, 39, and 42, applicants' claimed lead is configured to not only attenuate far-field signals, but to also attenuate T-wave signals and thereby prevent T-wave oversensing. On the other hand, Thompson et al. are concerned with the exact opposite issue, namely being able to accurately detect T-waves so as to deliver pacing pulses in timed relation to the T-waves. At column 8, lines 21-25, Thompson et al. state that their lead shown in FIG. 4(c) "provides a significant improvement for very near-field T-wave detection which, e.g., is important for enhancing the tachy-inducing effectiveness of this invention."

Therefore, Thompson et al. teach away from applicants' claimed invention by describing a system that must detect T-waves, whereas applicants' claimed lead attenuates T-waves to prevent T-wave oversensing. Therefore, there is no motivation to modify the lead in Thompson et al. as proposed by the examiner, since it would defeat the express purpose of the lead described by Thompson et al. Therefore, it is respectfully submitted that the obviousness rejection is improper.

Conclusion

In light of the above claim amendments and remarks, it is respectfully submitted that the application is in condition for allowance, and a notice of allowance is requested.

Respectfully submitted,

9/18/06

Date



Derrick Reed, Reg. No. 40,138
Patent Attorney for Applicants
818-493-2200

CUSTOMER NUMBER: 36802